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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,329	12/31/2003	Edgar Matias	P1282US00	8128
54640 7590 03/21/2007 PERRY & PARTNERS 1300 YONGE STREET SUITE 500 TORONTO, ON M4T-1X3 CANADA			EXAMINER PICKETT, JOHN G	
			ART UNIT 3728	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			03/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/748,329

Applicant(s)

MATIAS ET AL.

Examiner

Gregory Pickett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6,7 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6,7 and 9-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

1. This Office Action acknowledges the applicant's amendments filed 8 January 2007 and 12 December 2006. Claims 6, 7, and 9-11 are pending in the application. Claims 1-5 and 8 have been canceled.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

3. Claims 6, 7, and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shawler (US 4,899,888; provided by applicant) in view of Geary et al (US 6,899,946; hereinafter Geary) and Aileo (US 3,943,572).

Claims 6, 8, and 9: Shawler discloses a carrying case **10** with adaptable internal dimensions comprising a plurality of internal sidewalls **14, 16, 18 & 20**, and a plurality of stackable, shock-absorbent spacers **101-106** removably coupled to one another (Col. 4, lines 38-44).

Shawler discloses the claimed invention except for the express disclose of the adhesive on both sides of each spacer and the box wall, in addition to the adhesive being hook-and-loop fasteners.

Shawler uses adhesive instead of hook-and-loop fasteners. Geary shows that hook-and-loop fasteners were an equivalent structure known in the art (see Col. 4, lines 54-59). Therefore, because these two connecting means were art-recognized

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equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute hook-and-loop fasteners for the adhesive of Shawler. An express suggestion to substitute one equivalent component or process for another is not necessary to render such substitution obvious. *In re Fout*, 675 F.2d 297, 213 USPQ 532 (CCPA 1982).

As to the adhesive on both sides and the box wall, Aileo teaches the provision of the hook-and-loop fasteners **86/88** on both sides of the foam spacers **82/84** and the mounting location **74** in order to connect two or more shock absorbing pads (see for example Col. 4, lines 24-26 and Figure 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the hook-and-loop fasteners of Shawler-Geary on both sides of the spacers and the box sidewalls (i.e. the mounting location) as taught by Aileo in order to connect two or more spacers.

Claim 7: Shawler discloses impact-absorbing bodies **101-106**.

Claim 10: Shawler discloses lightweight foam (Col. 3, lines 57-61).

Claim 11: Shawler discloses the parallelepiped shape (see Col. 4, lines 33-35 and Figure 2B).

Response to Arguments

4. Applicant's arguments filed 12 December 2006 have been fully considered but they are not persuasive.

5. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

6. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., multi-use container) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

7. As to the adhesive vs. hook-and-loop fastening, in order to rely on equivalence as a rationale supporting an obviousness-type rejection, the equivalency must be recognized in the prior art. *In re Ruff*, 256 F.2d 590, 118 USPQ 340 (CCPA 1958). Geary represents evidence that adhesive and hook-and-loop fasteners were art-recognized equivalent structures for connecting layers of foam spacer material. An express suggestion to substitute one equivalent component or process for another is not necessary to render such substitution obvious. *In re Fout*, 675 F.2d 297, 213 USPQ 532 (CCPA 1982). Aileo teaches the hook-and-loop fastening upon the mounting surface.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Greg Pickett
Examiner
19 March 2007


Mickey Yu
Supervisory Patent Examiner
Group 3700